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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,738	03/24/2004	Mark E. Thompson	10020/31102	6531
26646 7590 04/18/2007 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER YAMNITZKY, MARIE ROSE	
			ART UNIT	PAPER NUMBER
			1774	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/18/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/807,738

Applicant(s)

THOMPSON ET AL.

Examiner

Marie R. Yamnitzky

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 5-21, 23-29, 31-33, 35-39, 41-57, 59-65, 67-69, 71-73 and 79-81 is/are pending in the application.
- 4a) Of the above claim(s) 17-19, 23-27, 53-55, 59-63 and 79-81 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 15, 16, 20, 21, 28, 29, 31-33, 35-39, 41, 42, 51, 52, 56, 57, 64, 65, 67-69 and 71-73 is/are rejected.
- 7) ☒ Claim(s) 7-14 and 43-50 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. This Office action is in response to applicant's amendment received January 22, 2007, which amends claims 1, 5, 15, 16, 21, 28, 29, 31-33, 35-37, 41, 45-52, 64, 69, 71 and 72, and cancels claims 4, 22, 30, 34, 40, 58, 66, 70, 74-78 and 82-88:

Claims 1-3, 5-21, 23-29, 31-33, 35-39, 41-57, 59-65, 67-69, 71-73 and 79-81 are pending.

2. Claims 17-19, 23-27, 53-55, 59-63 and 79-81 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 24, 2006.

3. The rejection under 35 U.S.C. 112, 1<sup>st</sup> paragraph, as set forth in the Office action mailed October 18, 2006 is rendered moot by claim cancellation.

The rejection under 35 U.S.C. 112, 2<sup>nd</sup> paragraph, as set forth in the October 18<sup>th</sup> action is partly rendered moot by claim cancellation and otherwise overcome by claim amendment.

(However, the amendment raises the issue of new matter and raises miscellaneous issues as set forth later in this action.)

The rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) based on Igarashi et al. (US 2001/0019782 A1) are partly rendered moot by claim cancellation and otherwise overcome by claim amendment.

The rejections under 35 U.S.C. 102(a), 35 U.S.C. 102(e) and 35 U.S.C. 103(a) based on Lamansky et al. (US 2002/0182441 A1) are rendered moot by claim cancellation.

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4. Claims 1-3, 5, 6, 15, 16, 20, 21, 28, 29, 31-33, 35-39, 41, 42, 51, 52, 56, 57, 64, 65, 67-69 and 71-73 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Support for the definition of each R as independently selected from H, alkyl, alkylaryl, aryl, and heteroaryl, as recited in the 7<sup>th</sup>-8<sup>th</sup> and 15<sup>th</sup> lines after the formula in independent claims 1 and 37, is not clear.

5. Miscellaneous:

In line 2 of claims 15, 16, 51 and 52, "R<sub>11</sub>" should apparently read --R<sub>12</sub>--.

In line 1 of claim 52, --one-- should be inserted after "least" (see original claim 52).

6. Claims 7-14 and 43-50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. (Note that the definitions of the variables as set forth in the base claim and intervening claims should not be recited in claims 9-14 and 45-50 if/when rewritten in independent form since claims 9-14 and 45-50 are limited to a narrower scope.)

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7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 7:00 a.m. to 3:30 p.m. Monday-Friday.

The current fax number for all official faxes is (571) 273-8300. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY  
April 15, 2007



**MARIE YAMNITZKY  
PRIMARY EXAMINER**

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